



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,280	12/29/2000	John R. Stefanik	00339	8924

26285 7590 01/20/2004

KIRKPATRICK & LOCKHART LLP
535 SMITHFIELD STREET
PITTSBURGH, PA 15222

EXAMINER

YANG, CLARA I

ART UNIT

PAPER NUMBER

2635

DATE MAILED: 01/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/751,280

Applicant(s)

STEFANIK ET AL.

Examiner

Clara Yang

Art Unit

2635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 09. 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed on 14 October 2003 with respect to claims 1 and 7 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1 - 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,223,348 (Hayes et al.) in view of U.S. Patent No. 6,603,420 (Lu).

Referring to Claims 1 and 7, Hayes teaches a universal remote control with a reader slot for receiving a smart card (see Abstract). As shown in Fig/ 5B, which is the schematic diagram of Fig. 5A with the addition of an infrared (IR) receiver, Hayes's remote control 11 comprises: (a) microprocessor 26; (b) an IR driver or transmitter; (c) IR receiver 37; and (d) smart card

Art Unit: 2635

connector 12 that enables microprocessor 26 to read from and write to smart card 15 (see Col. 6, lines 27 - 31). Per Hayes, remote control 11 is able to engage in bi-directional communication with other electronic devices such as a cable box, a direct broadcast satellite (DBS) receiver, an Internet access device, etc. (see Col. 9, lines 31 - 40), thus implying that each electronic device comprises: (e) a transmitter, (f) a receiver, and (g) an electronic program guide (see Col. 9, lines 7 - 10 and 23 - 30). Hayes, however, fails to teach a universal remote control further comprising (1) a motion detector in communication with microprocessor 26 and (2) a directional mode indicator in communication with the processor, wherein the directional mode indicator indicates the operation mode of remote control 11 based on a signal generated by the motion detector.

In an analogous art, Lu teaches a remote control device 100, as shown in Figs. 1 and 2, comprising: (a) a digital signal processor (DSP) 215; (b) an IR transmitter 220; (c) a motion detector formed by ball-shaped weight 205 and stress-sensitive resistive elements 210-1, 210-2, 210-3, and 210-4; and (d) meters 212-1, 212-2, 212-3, and 212-4 (see Col. 3, lines 38 - 54). Because meters 212-*i* (where *i* = 1 - 4) measure the electric current that flows through the corresponding resistive elements 210-*i* and supply these measurements to DSP 215 such that DSP 215 is able to determine if a particular command has been entered by a user moving remote control device 100 in a specified way (see Col. 3, lines 55 - 67 and Col. 4, lines 1 - 3), meters 212-*i* are understood to form a directional mode indicator. Per Lu, if DSP 215 determines from motion detection circuitry 200 that a user is "rolling" remote control device 100 in a clockwise direction in the A-A' plane (i.e., to the right) with sufficient speed, a volume-up command is transmitted to the controlled device. Lu adds that if remote control device 100 is rolled in a counter-clockwise direction in the A-A' plane (i.e., to the left) with sufficient speed, a volume-down

Art Unit: 2635

command is indicated. Likewise, if remote control device 100 is moved either upward or downward in the B-B' plane with sufficient speed, a channel-up or channel-down command is indicated, respectively. (See Col. 4, lines 12 - 42.)

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify remote control 11 of Hayes as taught by Lu because a remote control 11 having a motion detector and a directional mode indicator, such that the directional mode indicator indicates the operation mode of remote control 11 based on a signal generated by the motion detector, enables remote control 11 to generate commands based on a user's movement, thus reducing repetitive stress injury to the remote control and improving convenience for the user (see Lu, Col. 1, lines 19 - 22, 28 - 31, and 60 - 63).

Regarding Claim 2, Hayes imparts smart card 15 has user-specific information and preferences stored in its memory (see Col. 9, lines 7 - 10 and 23 - 30).

Regarding Claim 3, Hayes states that smart card 15 is characterized as a device with a non-volatile memory and a microprocessor (see Col. 1, lines 5 - 17).

Regarding Claim 4, though contactless or hybrid smart cards can be used, Hayes specifies that the preferred embodiment utilizes a contact type smart card (see Col. 1, lines 18 - 30).

Regarding Claims 5 and 9, per Hayes, smart card 15 must be inserted into a reader slot in remote control 11 (see Col. 2, lines 18 - 23 and Col. 5, lines 35 - 46 and 54 - 59).

Regarding Claim 6, Hayes's remote control 11 has an EEPROM 27 (see Fig. 5A) that stores data read from smart card 15 (see Col. 7, lines 4 - 9 and 33 - 48).

Regarding Claim 8, Hayes's remote control 11 has an IR transmitter and receiver (see Fig. 5B and Col. 9, lines 31 - 35).

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

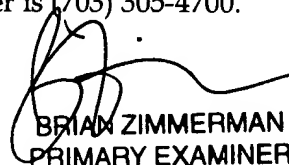
☺

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clara Yang whose telephone number is (703) 305-4086. The examiner can normally be reached on 8:30 AM - 7:00 PM, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on (703) 305-4704. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

CY
31 December 2003


BRIAN ZIMMERMAN
PRIMARY EXAMINER